

Department of Marine Resources

NOTICE OF AGENCY EMERGENCY RULE-MAKING

CHAPTER # & TITLE: Chapter 37.02 Prohibitions on the Taking or Possession of ~~Minimum Length Limit for~~ Landlocked Salmon, Brown Trout, and Rainbow Trout

CONCISE SUMMARY: Department personnel have observed or received reports of anglers catching Atlantic salmon in Marsh Stream, Frankfort, which is a tributary of the Penobscot River downstream from the site of the former Bangor dam. The endangered Atlantic salmon caught in these tidal waters can be easily mistaken for landlocked salmon or brown trout. Due to the joint listing by the National Oceanic and Atmospheric Administration (NOAA) and the US Fish & Wildlife Service (USFWS) in 2009 of Atlantic salmon as endangered in these territorial waters pursuant to 50 CFR Parts 17 and 224, Vol. 74, No. 117, pages 29344 – 29387, (online: http://www.nero.noaa.gov/prot_res/altsalmon/) it is imperative to prohibit the take of any salmon (sea-run or landlocked) and brown trout to conserve and protect the federally declared endangered Atlantic salmon from imminent depletion and possible extirpation from this federally designated area.

A copy of the rule is available online at <http://www.maine.gov/dmr/rulemaking/> or to receive a copy by mail see agency contact information listed. A public hearing will be held in the affected area if requested of the Commissioner in writing by 5 persons. The hearing will be held within 30 days of the Commissioner receiving the written requests.

EFFECTIVE DATE: **April 17, 2010**

To ensure consideration, comments must include your name and the organization you represent, if any. Please be aware that any risk of non-delivery associated with submissions by fax or e-mail is on the sender.

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Adopted emergency regulations: Chapter 37 – Freshwater Fish Regulations

37.02 Prohibitions on the Taking or Possession of ~~Minimum Length Limit for~~ Landlocked Salmon, Brown Trout, and Rainbow Trout

A. It shall be unlawful to take or possess landlocked salmon, brown trout, or rainbow trout, which are less than 14 inches in total length from the coastal waters of the State of Maine. It shall be unlawful to take or possess landlocked salmon, which are greater than 25 inches total length, from the coastal waters of the State of Maine.

B. Penobscot River: It shall be unlawful to take or possess landlocked salmon, brown trout, or rainbow trout from tidal waters upstream and North of the Penobscot Narrows Bridge and north of the Verona Island Bridge.

CB. A person lawfully engaged in the aquaculture of landlocked salmon, brown trout, or rainbow trout shall be exempt from ~~this section~~ Chapter 37.02(A) provided that person holds a lease or special license, if required, pursuant to 12 M.R.S.A. §§6072, 6072-A, 6073-A, 6073-D or 6074.

Basis Statement

Department personnel have observed or received reports of anglers catching Atlantic salmon in Marsh Stream, Frankfort, which is a tributary of the Penobscot River downstream from the site of the former Bangor dam. The endangered Atlantic salmon caught in these tidal waters can be easily mistaken for landlocked salmon or brown trout. Due to the joint listing by the National Oceanic and Atmospheric Administration (NOAA) and the US Fish & Wildlife Service (USFWS) in 2009 of Atlantic salmon as endangered in these territorial waters pursuant to 50 CFR Parts 17 and 224, Vol. 74, No. 117, pages 29344 – 29387, (online: http://www.nero.noaa.gov/prot_res/altsalmon/) it is imperative to prohibit the take of any salmon (sea-run or landlocked) and brown trout to conserve and protect the federally declared endangered Atlantic salmon from imminent depletion and possible extirpation from this federally designated area.

These emergency regulations would impact tidal water anglers who may be fishing for any salmon (sea-run or landlocked) and brown trout in the Penobscot River north of the bridges crossing to the Town of Verona Isle to prevent any incidental take of the endangered Atlantic salmon in this region.

The Commissioner hereby adopts these emergency regulations due to the risk of imminent depletion and possible extirpation from this area of the federally designated Penobscot River for the protection and conservation of the endangered Atlantic salmon as authorized by 12 M.R.S. §§6171, 6171(3) and 6192(4) the Commissioner of Marine Resources adopts this emergency regulation.